

SENATE BILL No. 432

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-23-3.

Synopsis: Motor vehicle dealers. Provides that it is an unfair practice for a vehicle manufacturer or distributor to ask or require a vehicle dealer to waive certain provisions dealing with unfair practices in the vehicle sales profession or franchise practices. Provides that it is an unfair practice for a vehicle manufacturer, distributor, officer, or agent to: (1) require, as a condition of the grant of a sales and service agreement or the approval of the transfer of the ownership or assets of a new motor vehicle dealer, the construction or modification of a new dealership facility; (2) prohibit a motor vehicle dealer from reasonably representing more than one line make of motor vehicle from the same or a modified facility, if reasonable facilities exist or will exist after modification for the combined operations; or (3) grant only limited sales and service agreements that are conditioned on completion or construction of a new dealership facility or dealership facility improvement.

Effective: July 1, 2009.

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January 12, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 432

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-23-3-7 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) It is an unfair practice for a
3 manufacturer or distributor to violate IC 23-2-2.7.

4 (b) **It is an unfair practice for a manufacturer or distributor to**
5 **enter into an agreement in which a dealer is asked to or required**
6 **to waive the provisions of:**

7 (1) **this chapter; or**

8 (2) **IC 23-2-2.7.**

9 SECTION 2. IC 9-23-3-23, AS AMENDED BY P.L.49-2007,
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2009]: Sec. 23. It is an unfair practice for a manufacturer,
12 distributor, officer, or agent to do any of the following:

13 (1) Require, coerce, or attempt to coerce any new motor vehicle
14 dealer in Indiana to:

15 (A) change location of the dealership;

16 (B) make any substantial alterations to the use of franchises;

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(C) make any substantial alterations to the dealership premises or facilities;

if to do so would be unreasonable or would not be justified by current economic conditions or reasonable business considerations. This subdivision does not prevent a manufacturer or distributor from establishing and enforcing reasonable facility requirements.

(2) Require, coerce, or attempt to coerce any new motor vehicle dealer in Indiana to divest its ownership of or management in another line or make of motor vehicles that the dealer has established in its dealership facilities with the prior written approval of the manufacturer or distributor.

(3) Establish or acquire wholly or partially a franchisor owned outlet engaged wholly or partially in a substantially identical business to that of the franchisee within the exclusive territory granted the franchisee by the franchise agreement or, if no exclusive territory is designated, competing unfairly with the franchisee within a reasonable market area. A franchisor is not considered to be competing unfairly if operating:

(A) a business for less than two (2) years;

(B) in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price; or

(C) in a bona fide relationship in which an independent person or persons have made a significant investment subject to loss in the business operation and can reasonably expect to acquire majority ownership or managerial control of the business on reasonable terms and conditions.

This subdivision shall not apply to recreational vehicle manufacturer franchisors.

(4) Require, as a condition of the:

(A) grant of a sales and service agreement; or

(B) approval of the transfer of the ownership or assets of a new motor vehicle dealer;

the construction or modification of a new dealership facility.

(5) Prohibit a motor vehicle dealer from reasonably representing more than one (1) line make of motor vehicle from the same or a modified facility, if reasonable facilities exist or will exist after modification for the combined operations.

(6) Grant only limited sales and service agreements that are conditioned on completion or construction of a new dealership facility or dealership facility improvement.

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